

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION

Michael J. Easton,	)	Case No. 1:19-cv-00008-DCC
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Capt. Marvin Nix,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on Plaintiff's Complaint and Amended Complaint<sup>1</sup> alleging violations of his constitutional rights. ECF Nos. 1, 11. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings and a Report and Recommendation ("Report"). On January 18, 2019, the Magistrate Judge issued a Report recommending that the Complaint be dismissed for failing to state a claim for supervisory liability. ECF No. 16. Plaintiff filed objections to the Report.<sup>2</sup> ECF No. 18.

**APPLICABLE LAW AND ANALYSIS**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The

---

<sup>1</sup> Plaintiff filed an Amended Complaint after the Magistrate Judge warned him that his Complaint was subject to dismissal. ECF No. 9.

<sup>2</sup> The Court has also considered the two letters filed by Plaintiff after his objections.

Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

The Magistrate Judge recommends dismissal of this action because Plaintiff fails to allege that Defendant personally violated his constitutional rights or that he was deliberately indifferent to, or tacitly authorized, any of his subordinates’ actions that posed a constitutional risk of injury to Plaintiff. In his objections, Plaintiff fails to address the recommendation of the Magistrate Judge. He restates his allegations, but, again, fails to allege any action or knowledge of the part of Defendant. Out of an abundance of caution for a pro se Plaintiff, the Court has conducted a de novo review of the record, the applicable law, and the Report of the Magistrate Judge. However, even after having done so, the Court agrees with the recommendation of the Magistrate Judge that this action is subject to summary dismissal.

### **CONCLUSION**

Accordingly, this action is **DISMISSED** without prejudice and without issuance of service of process.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

April 16, 2019  
Spartanburg, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.